



11-2-07

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No. : 10/089,449 Confirmation No. : 9422
First Named Inventor : Istvan SZELENYI
Filed : June 28, 2002
TC/A.U. :
Examiner :
Docket No. : 99380.B820005
Customer No. : 23911
Title : Novel Combination of Loteprednol B2-Adrenoceptor Agonists

RESPONSE TO NOTIFICATION OF NON-COMPLAINT APPEAL BRIEF

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

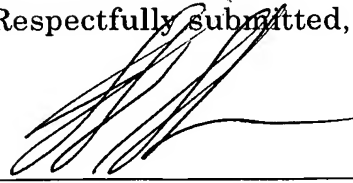
In response to the Notification of Non-Compliant Appeal Brief dated January 30, 2008, attached is a replacement Page 20 for the Appeal Brief filed December 27, 2007. This replacement page includes headings IX and X (Evidence Appendix and Related Proceedings Appendix).

If there are any questions regarding this response or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket # 99380.B820005).

Serial No. 10/089,449
Response Dated: 2-28-08
Reply to Notification Dated: 1-30-08

Respectfully submitted,



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February 28, 2008

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Appellants submit that absent a teaching from the cited references to combine (1) loteprednol (or loteprednol etabonate) and (2) β_2 adrenoceptor, for the treatment of asthma bronchiale as recited in Claim 7, a *prima facie* case for obviousness has not been established. Thus, Appellants assert that the cited references do not suggest the method recited in Claim 7, and that the possibility of achieving success for this method of treatment is not reasonably expected based on the limited disclosure of the cited references. Because a *prima facie* case for obviousness has not been established, and in view of the unexpected results, Appellants respectfully request the withdrawal of the rejection of Claim 7 under 35 U.S.C. §103(a).

VIII. Claims Appendix

See attached Claims Appendix for a copy of the claims at issue.

IX. Evidence Appendix

None

X. Related Proceedings Appendix

None